

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE: :  
: CASE NO. 05-95374-JB  
GERTRUDE G. ISAAC, :  
: :  
: CHAPTER 7  
Debtor. :

ORDER

On November 4, 2005, Debtor filed a pleading requesting to proceed *in forma pauperis* in her Chapter 7 case. In her motion, Debtor alleges that she paid the last installment of the filing fee on November 4, 2005, but that the payment caused her undue hardship. She requests a refund of the entire filing fee of \$209.00 and that she to be allowed to proceed *in forma pauperis*. For the reasons set forth below, Debtor's motion must be denied.

Debtor filed this case on August 22, 2005. At the time Debtor filed her case, she filed an application to pay the \$209.00 Chapter 7 filing fee in installments and made a \$30.00 payment toward the initial \$75.00 installment. On August 23, 2005, the Court entered an Order, granting her application provided that she complete the initial payment within 10 days. Debtor timely made this payment and, after the Clerk's office sent her a deficiency notice regarding her second installment of \$67.00, she paid the second installment. On October 27, 2005, the Clerk's office notified Debtor that her final installment of \$67.00 was due within 10 days or her case would be dismissed. On November 1, 2005, Debtor filed a motion to proceed *in forma pauperis* in her Chapter 7 case, but then made this payment on November 4, 2005.

Prior to October 17, 2005, an individual filing for bankruptcy was not granted the right to proceed *in forma pauperis*. *United States Kras*, 409 U.S. 434, 93 S.Ct. 631, 34 L.ed.2d 626 (1973). For bankruptcy cases filed before October 17, 2005, bankruptcy courts do not have the authority to waive the payment of the filing fee to commence a bankruptcy case.<sup>1</sup> The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA”) amended 28 U.S.C. § 1930 to permit the Court to waive the filing fee for an individual Chapter 7 debtor in a case filed on or after October 17, 2005, if the debtor met certain requirements.<sup>2</sup> Since Debtor filed the instant Chapter 7 case on August 22, 2005, she is ineligible to proceed *in forma pauperis* in this Chapter 7 case and the Court has no authority to grant the request for a refund.

Accordingly, Debtor’s request to proceed *in forma pauperis* in her Chapter 7 case and to receive a refund of the filing fee is denied.

IT IS SO ORDERED, this \_\_\_\_ day of November, 2005.

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JOYCE BIHARY  
UNITED STATES BANKRUPTCY JUDGE

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<sup>1</sup> On October 1, 1994, pursuant to a Congressional directive, the Judicial Conference of the United States instituted a three year pilot program in six judicial districts to study the effect of waiving bankruptcy fees for individual Chapter 7 debtors unable to pay the filing fee. See Pub.L. No. 103-121, § 111(d), 28 U.S.C. § 1930, Statutory Notes, Report on Bankruptcy Fees. The Northern District of Georgia was not one of the pilot districts, and the program was discontinued in 1997.

<sup>2</sup> See S. 256, BAPCPA, Pub. L. No. 109-8, 119 Stat. 23 (2005). President Bush signed this legislation into law on April 20, 2005, and the effective date for most provisions, including the provision allowing waiver of the filing fee in a Chapter 7 case, was October 17, 2005.

## **DISTRIBUTION LIST**

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